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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,999	03/12/2004	Daniel Lyakovetsky	050704/344077	6861
826 7590 10/05/2009				
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				
EXAMINER				
RAPILLO, KRISTINE K				
ART UNIT		PAPER NUMBER		
3626				
MAIL DATE		DELIVERY MODE		
10/05/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/798,999

**Applicant(s)**

LYAKOVETSKY, DANIEL

**Examiner**

KRISTINE K. RAPILLO

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the amendment submitted August 10, 2009. Claims 1 – 6 and 9 – 17 are amended. Claims 7 and 8 are cancelled. Claims 1 – 6 and 9 – 17 are presented for examination. Note: this communication is a final rejection, incorporating the amended claims submitted August 10, 2009; as the changes to the claims were to correct objections and 112 rejections (i.e. lack of antecedent basis), they did not change the scope of the claims.

### ***Claim Objections***

2. The objection to claim 12 is hereby withdrawn based upon the amendment submitted August 10, 2009.

### ***Claim Rejections - 35 USC § 112***

3. The 35 U.S.C. 112, second paragraph rejections of claims 1 – 12 are hereby withdrawn based on the amendment submitted August 10, 2009.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 – 2, 5, 10 – 12, and 14 - 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCallum (U.S. Patent Number 5,784,635) further in view of Wiggins (U.S. Publication Number 2002/0120473 A1).

In regard to claim 1 (Currently Amended), McCallum teaches an apparatus comprising a processor configured to:

convert a data point from a first format into a uniform format, wherein said data point represents data from an insurance claim (column 5, lines 1 – 4; column 6, lines 40 – 46; and, column 10, lines 44 – 50) where McCallum teaches converting source data into a uniform format which includes insurance company data;

receive said data point in said uniform format and send said data point to a memory, wherein said data point is a member of a plurality of data points in said uniform format in said memory (column 6, lines 22 – 56) where McCallum discloses importing the uniform source data. It is inherent that when data is imported to a destination, it is received at a destination; and

retrieve said plurality of data points from said memory and produce a metric from said plurality of data points (column 7, lines 6 – 33 and column 8, lines 36 – 52) where McCallum discloses “cleaning” in which data points having common elements are linked (i.e. producing a metric such as patient, physician, payor, hospital) and anomalies in the data are cleaned.

Wiggins teaches an apparatus comprising a processor configured to: identify one or more expired data points of said plurality of data points in said memory (paragraph [0081] where a user can search for (i.e. identify) a particular transaction, which the Examiner equates to a data point/claim) and create at least one summary associated with the one or more expired data points (paragraph [0081] where a user can obtain a transaction summary): wherein each of the expired data points are associated with a time period (paragraphs [0034] and [0081] where the claim processing data expires after a period of time) and wherein the summary comprises information associated with one or more insurance claims and reduce the information in at least one of the insurance claims in response to a respective time period elapsing (paragraphs [0034], [0050], and [0055]). The phrase “expired data” is a design choice; the data is relabeled after an arbitrary time, thus renamed data remains the same.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an apparatus comprising a processor configured to: identify one or more

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expired data points of said plurality of data points in said memory and create at least one summary associated with the one or more expired data points: wherein each of the expired data points are associated with a time period and wherein the summary comprises information associated with one or more insurance claims and reduce the information in at least one of the insurance claims in response to a respective time period elapsing as taught by Wiggins, within the system of McCallum, with the motivation of providing a system to be used by a provider to track patient information including patient billing (paragraph [0013]).

In regard to claim 2 (Previously Presented), McCallum and Wiggins teach the apparatus of claim 1.

Wiggins further teaches an apparatus wherein the processor is further configured to issue an alert if said metric satisfies an alertable condition (paragraph [0061]) where an "alert" object reads and writes alerts to and from the database.

The motivation to combine the teachings of Wiggins and McCallum is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 5 (Previously Presented), McCallum and Doherty teach the apparatus of claim 1. McCallum further teaches an apparatus:

- wherein said data point is a first data point (claim 1 of McCallum); and
- wherein the processor is further configured to convert a second data point from a second format into said uniform format (column 6, lines 47 through column 7, line 5),
- wherein said second data point represents data from an insurance claim (column 10, lines 44 – 50), and
- wherein said second format is different from said first format (column 6, line 47 – through column 7, line 5), and

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- wherein said processor is further configured to receive said second data point in said uniform format and send said second data point to said memory (column 7, lines 6 – 33 and column 8, line 36 – 52).

McCallum does not explicitly teach an apparatus, although McCallum states in the specification that the system described can be used for providing physician data (i.e. diagnosis codes, patient identification) uniformly linked to hospitals, insurance companies, and more (column 6, line 40 through column 7, line 5). However, McCallum teaches a system and method for standardizing a physicians records located at physician's offices, laboratories, hospitals, etc. McCallum teaches a method and system in which data is extracted and converted into a uniform format, sent to a database, and forms a metric (i.e. measure number of patients using the same insurance company).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a method and system as taught by McCallum as the invention disclosed by McCallum teaches all of the limitations as the applicant's invention. McCallum teaches a system which provides an efficient means for claim processing by enabling all claims submitted, from any number of systems, to 'e in a uniform formation to ensure accurate and reliable information (column 2, lines 43 – 62).

In regard to claim 9 (Previously Presented), McCallum and Wiggins teach the apparatus of claim 1.

Wiggins further teaches a system wherein said one or more expired data points subsequent to being aggregated by said processor, are deleted from said memory (paragraph [0061]).

The motivation to combine the teachings of McCallum and Wiggins is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 17 (Previously Presented), McCallum and Wiggins teach the apparatus of claim 9.

Wiggins further teaches a system wherein said processor is further configured to store the at least one summary in said memory (paragraphs [0034], [0050] and [0055]).

The motivation to combine the teachings of McCallum and Wiggins is discussed in the rejection of claim 1, and incorporated herein.

Apparatus and computer program product claims 10, 12, and 14 – 16 repeat the subject matter of claims 1 – 2, 5, and 17. As the underlying processes of claims 1 – 2, 5, and 17 have been shown to be fully disclosed by the teachings of McCallum and Wiggins in the above rejections of claims 1 – 2, 5, and 17; as such, these limitations (10, 12, and 14 – 16) are rejected for the same reasons given above for claims 1 – 2, 5, and 17 and incorporated herein.

6. Claims 3, 4, 6, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCallum (U.S. Patent Number 5,784,635) in view of Wiggins (U.S. Publication Number 2002/0120473 A1), and further in view of Pish (U.S. Publication Number 2003/0009357 A1).

In regard to claim 3 (Previously Presented), McCallum and Wiggins teach the apparatus of claim 1. Wiggins teaches a system where the alertable condition is (b) an experience-based condition (paragraph [0069]).

Pish further teaches a system wherein said alertable condition is selectable by the processor from the group consisting of (a) a threshold-based condition (paragraph [0279] where error messages are detected based on levels (thresholds)) and (c) a rule-based condition (paragraphs [0121] through [0129]). Pish discloses an invention in which claims are organized based upon detailed information in the claims (paragraphs [1359], [1474], and [1537]). A claim folder manages the claim information from start to finish

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and triggers responses to perform tasks (paragraphs [1344] through [1355]), thus Pish discloses rules based conditions.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein said alertable condition is selectable by the processor from the group consisting of (a) a threshold-based condition and (c) a rule-based condition as taught by Pish, within the apparatus of McCallum and Wiggins, with the motivation of providing a system in which data sets can be organized and linked to one another for a particular project (paragraph [0019]), thus organizing claims is considered a data set and can be linked to other claims.

In regard to claim 4 (Previously Presented), McCallum and Wiggins teach the apparatus of claim 1.

Pish teaches an apparatus wherein said metric is in a form of a data cube (paragraphs [1176] – [1177]). Pish's disclose an array of values to detect the differences of the query. A data cube was defined by the applicant in paragraph [0014] of the specification as an array of values.

The motivation to combine the teachings of McCallum, Wiggins, and Pish is discussed in the rejection of claim 3, and incorporated herein.

In regard to claim 6 (Previously Presented), McCallum and Wiggins teach the apparatus of claim 1.

Pish further teaches an apparatus wherein said metric is a first metric in a form of a first data cube having a first set of dimensions, and wherein said processor is further configured to produce a second metric from said plurality of data points in a form of a second data cube having a second set of dimensions (Abstract and paragraph [0019]).

The motivation to combine the teachings of McCallum, Wiggins, and Pish is discussed in the rejection of claim 3, and incorporated herein.



Apparatus and computer program product claim 13 repeats the subject matter of claim 3. As the underlying processes of claim 3 has been shown to be fully disclosed by the teachings of McCallum, Wiggins, and Pish in the above rejections of claim 3; as such, these limitations (13) are rejected for the same reasons given above for claim 3 and incorporated herein.

### ***Response to Arguments***

7. Applicant's arguments filed August 10, 2009 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed August 10, 2009.

8. In regard to claim 1, the Applicant argues that McCallum and Wiggins, taken individually or in combination, do not teach or suggest at least an apparatus comprising a processor configured to: (A) create at least one summary associated with the one or more data points are associated with a time period and; (B) reduce the information in the at least one of the insurance claims of the summary in response to a respective time period elapsing. The Examiner respectfully disagrees.

In regard to the limitation "create at least one summary associated with the one or more data points are associated with a time period", the Examiner submits that Wiggins discloses a transaction activity summary describing the claims processed, including statistics, the number of claims submitted per payer, and the date and time the claim was processed (Wiggins: paragraph [0081]); because "expired data points" is a design choice, the data points (interpreted as claims) remain the same only re-labeled "expired".

With regard to the limitation "wherein each of the expired data points are associated with a time point", the Examiner submits that Wiggins discloses a method and system in which a claim status report is prepared for all claims (data points) previously filed, as well as all claims accepted for processing (the Examiner interprets this to be current or in process claims or data points) (Wiggins: paragraph [0039]). Thus a report is prepared which would include both current and expired data points.

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With regard to the limitation "reduce the information in at least one of the insurance claims in response to a respective time period elapsing", the Examiner submits that Wiggins discloses a method and system in which adjudicated claims and responses are compressed (or reduced) (Wiggins: paragraph [0055]); Because adjudicated claims are settled (determination of payment has been made), a claim can be considered complete. Thus, it would be obvious to reduce the information regarding insurance claims into a summary to include all processed claims including claims occurring over specific time periods.

The Examiner respectfully submits that the McCallum reference teaches a method and system in which source data is collected from a physicians' computer and converted into a common format and can include insurance data (Abstract and column 10, lines 44 – 50) and the Wiggins reference teaches a method and system of filing insurance claims via the internet and tracking the patient and billing information (paragraph [0013]). In addition, the key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR*, 550 U.S. at \_\_\_, 82 USPQ2d at 1396. An example of rationale that may support a conclusion of obviousness include: (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention See MPEP § 2143. Furthermore, if the search of the prior art and the resolution of the *Graham* factual inquiries reveal that an obviousness rejection may be made using the familiar teaching-suggestion-motivation (TSM) rationale, then such a rejection should be made. Although the Supreme Court in *KSR* cautioned against an overly rigid application of TSM, it also recognized that TSM was one of a number of valid rationales that could be used to determine obviousness. (According to the Supreme Court, establishment of the TSM approach to the question of obviousness "captured a helpful insight." 550 U.S. at \_\_\_, 82 USPQ2d at 1396 (citing *In re Bergel*, 292 F.2d 955, 956-57, 130 USPQ 206, 207-208 (1961)).

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The Applicant's arguments are non-persuasive and the rejection of claim 1 is maintained.

9. In regard to claim 3, the Applicant argues that the combination of McCallum and Wiggins is deficient in the same manner as independent claims 1 and 12, and Pish does not make up for the deficiencies of McCallum and Wiggins, and is not cited as such. The response to the Applicants argument in regard to the deficiency in McCallum and Wiggins is discussed in the rejection of claim 1 above.

The Applicant's arguments are non-persuasive and the rejection of claim 3 is maintained.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/C. Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626